IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 160 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

DIVISIONAL CONTROLLER - Petitioner(s)

Versus

SECRETARY - Respondent(s)

==========

Appearance :

MR KM PARIKH for Petitioner No(s).: 1.

MR GK RATHOD for Respondent No(s).: 1.

==========

CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 05/07/2005

ORAL JUDGMENT

1.0 The petitioner has challenged the order dated 04.03.1999 passed by the Industrial Tribunal, Ahmedabad, in

Reference (IT) No.212 of 1992, whereby the said reference was allowed.

2.0 The respondent was initially working as a Conductor with the petitioner Corporation. Since the respondent was suffering from severe fever, it resulted into physical unfitness of the respondent to work on the said Post. On 19.03.1991, the respondent produced a Certificate showing that the respondent was fit for duty and that to for light work. Pursuant to the above, the respondent made a request to re-categorize him on the Post of Peon at the Mehsana Division of the petitioner.

2.1 It is the case of the petitioner that since there was no vacancy for the Post of Peon at Mehsana Division, the respondent was not re-categorized to the said Post of Peon. The competent authority of the Mehsana Division requested the respondent to intimate his willingness to work on the Post of Peon at any other Division other than the Mehsana Division, since there was no vacancy of Peon at the Mehsana Division.

2.2 Since the respondent did not show his willingness to work at any other Division of the petitioner Corporation, the petitioner by letter dated 01.10.1991 granted permission to the competent authority of the Mehsana Division to permit the respondent to work on the Post of a Helper as a special case. Thereafter, the respondent made repeated requests to appoint him as a Peon at the Mehsana Division. Thereafter, the petitioner by letter dated 18.06.1992 re-categorized the respondent on the Post of a Peon at the Ahmedabad Division.

2.3 In pursuance to the above, the competent authority of the Mehsana Division relieved the respondent from duty on 18.06.1992 and the respondent resumed his duty on the Post of Peon at the Ahmedabad Division on 19.06.1997. Thereafter, the respondent raised industrial dispute before the Industrial Tribunal, Ahmedabad. The Industrial Tribunal, by impugned order, allowed the said reference. Hence, this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. Having gone through the impugned order of the Industrial Tribunal, I find no infirmity with the reasonings given in the impugned order. The Tribunal has rightly held that the respondent is entitled for salary during the period from 24.06.1991 to 18.06.1992. I am in complete agreement with the reasonings given by and the findings arrived at by the Tribunal, and therefore, find no reason to interfere in this petition.

4.0 In above view of the matter, this petition is dismissed. Rule is discharged with no order as to costs. Ad-interim relief granted earlier stands vacated.

(K. S. JHAVERI, J.)

pravin/ *